



House of Representatives

General Assembly

File No. 381

January Session, 2003

Substitute House Bill No. 6115

House of Representatives, April 15, 2003

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CLAIMS OF THE STATE FOR REPAYMENT OF AID.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-94 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2003*):

3 (a) In the case of causes of action of beneficiaries of aid under the
4 state supplement program, medical assistance program, aid to families
5 with dependent children program, temporary family assistance
6 program or state-administered general assistance program, subject to
7 subsections (b) and (c) of section 17b-93, or of a parent of a beneficiary
8 of the aid to families with dependent children program, the temporary
9 family assistance program or the state-administered general assistance
10 program, the claim of the state shall be a lien against the proceeds
11 [therefrom in] of such causes of actions. The state's lien shall be the
12 lesser of the amount of the assistance paid or [fifty] (1) if the amount of
13 the proceeds is less than four thousand dollars, thirty-five per cent of

14 the proceeds received by such beneficiary or such parent after
15 payment of all expenses connected with the cause of action [,
16 whichever is less,] for repayment under [said] section 17b-93, [and] (2)
17 if the amount of the proceeds is four thousand dollars or more but less
18 than ten thousand dollars, forty-five per cent of the proceeds received
19 by such beneficiary or such parent after payment of all expenses
20 connected with the cause of action for repayment under section 17b-93,
21 and (3) if the amount of the proceeds is ten thousand dollars or more,
22 fifty-five per cent of the proceeds received by such beneficiary or such
23 parent after payment of all expenses connected with the cause of action
24 for repayment under section 17b-93. The state's claim for repayment
25 under section 17b-93 shall have priority over all other claims except
26 attorney's fees for said causes, expenses of suit, costs of hospitalization
27 connected with the cause of action by whomever paid over and above
28 hospital insurance or other such benefits, and, for such period of
29 hospitalization as was not paid for by the state, physicians' fees for
30 services during any such period as are connected with the cause of
31 action over and above medical insurance or other such benefits; and
32 such claim shall consist of the total assistance repayment for which
33 claim may be made under said programs. The proceeds of such causes
34 of action shall be assignable to the state for payment of the amount due
35 under [said] section 17b-93, irrespective of any other provision of law.
36 Upon presentation to the attorney for the beneficiary of an assignment
37 of such proceeds executed by the beneficiary or his conservator or
38 guardian, such assignment shall constitute an irrevocable direction to
39 the attorney to pay the Commissioner of Administrative Services in
40 accordance with its terms, except if, after settlement of the cause of
41 action or judgment thereon, the Commissioner of Administrative
42 Services does not inform the attorney for the beneficiary of the amount
43 of lien which is to be paid to the Commissioner of Administrative
44 Services within forty-five days of receipt of the written request of such
45 attorney for such information, such attorney may distribute such
46 proceeds to such beneficiary and shall not be liable for any loss the
47 state may sustain thereby.

48 (b) In the case of an inheritance of an estate by a beneficiary of aid

49 under the state supplement program, medical assistance program, aid
50 to families with dependent children program, temporary family
51 assistance program or state-administered general assistance program,
52 subject to subsections (b) and (c) of section 17b-93, [fifty] the claim of
53 the state shall be an assignable share of assets of the estate payable to
54 the beneficiary. The state's assignable share shall be the lesser of the
55 amount of assistance paid or (1) for assets with value of less than ten
56 thousand dollars, thirty per cent of the assets of the estate payable to
57 the beneficiary [or the amount of such assets equal to the amount of
58 assistance paid, whichever is less,] shall be assignable to the state for
59 payment of the amount due under [said] section 17b-93, (2) for assets
60 with value of ten thousand dollars or more but less than fifteen
61 thousand dollars, fifty per cent of the assets payable to the beneficiary
62 shall be assignable to the state for repayment of the amount due under
63 section 17b-93, and (3) for assets with value of fifteen thousand dollars
64 or more, fifty-five per cent of the assets payable to the beneficiary shall
65 be assignable to the state for repayment of the amount due under
66 section 17b-93. The Court of Probate shall accept any such assignment
67 executed by the beneficiary and filed by the Commissioner of
68 Administrative Services with the court prior to the distribution of such
69 inheritance, and to the extent of such inheritance not already
70 distributed, the court shall order distribution in accordance therewith.
71 If the Commissioner of Administrative Services receives any assets of
72 an estate pursuant to any such assignment, the commissioner shall be
73 subject to the same duties and liabilities concerning such assigned
74 assets as the beneficiary.

This act shall take effect as follows:	
Section 1	July 1, 2003

HS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Admin. Serv., Dept	GF - Revenue Gain	Less than 5,000	Less than 5,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a graduated schedule for the recovery of public assistance when a public assistance beneficiary wins a lawsuit or comes into an inheritance.

Under the bill's graduated recovery schedule, the state's share rises from 35% of lawsuit proceeds under \$4,000, up to 55% of lawsuit proceeds greater than \$10,000. The state's share of inheritance assets increases from 30% of assets under \$10,000, up to 55% of assets greater than \$15,000. Currently, the state's share is the lesser of the amount of public assistance or 50% of the lawsuit or inheritance proceeds.

This bill will result in a minimal revenue gain of less than \$5,000 to the state.

OLR Bill Analysis

sHB 6115

AN ACT CONCERNING CLAIMS OF THE STATE FOR REPAYMENT OF AID**SUMMARY:**

This bill changes the way the state recovers public assistance provided when a beneficiary of such assistance benefits from a lawsuit or inheritance. Specifically, it sets up a sliding scale for these recoveries, with the amount the state recovers rising as the benefit amount rises. Currently, the state's share is generally the amount of assistance paid or 50% of the proceeds of the benefit, whichever is less. The bill's effect on the state's recovery depends on the amount of the benefit and the assistance provided. The bill, under certain circumstances (1) decreases the state's recovery if the benefit is less than \$10,000 and (2) increases the recovery if a lawsuit award is \$10,000 or more or an inheritance is \$15,000 or more.

EFFECTIVE DATE: July 1, 2003

RECOVERIES FROM PUBLIC ASSISTANCE BENEFICIARIES***Lawsuits***

By law, when a beneficiary (current or former) of State Supplement, Medicaid, Temporary Family Assistance (TFA), Aid to Families with Dependent Children (replaced by TFA), or State-Administered General Assistance (SAGA) or the parent of a TFA, AFDC, or SAGA beneficiary wins a lawsuit, the state places a lien against the proceeds of the suit. Currently, the state's lien is the lesser of the amount of assistance paid or 50% of the proceeds of the suit, after payment of expenses. The state's claim has priority over all other claims except (1) attorney's fees, (2) expenses from the suit, and (3) hospitalization costs connected with the suit.

The bill instead establishes a graduated recovery schedule as follows.

<i>Amount of Lawsuit Proceeds</i>	<i>State's Share After Expenses</i>
0-\$3,999	35%

\$4,000-\$9,999	45%
\$10,000 and higher	55%

Inheritances

When these public assistance beneficiaries come into an inheritance under current law, the state recovers in the same way it collects from lawsuits. Its share is the lesser of 50% of the assets of the estate payable to the beneficiary or the amount of assistance paid. Under the bill, the following recovery schedule applies.

<i>Value of Assets from Estate Payable to Beneficiary</i>	<i>State's Share</i>
0-\$9,999	30%
\$10,000-\$14,999	50%
\$15,000 and higher	55%

BACKGROUND

Limits on Medicaid Recoveries

Federal law (42 USC § 1396p) generally limits a state's ability to recover correctly paid Medicaid benefits to those from a decedent's estate. Hence, recoveries that the state would attempt from Medicaid beneficiaries experiencing windfalls would be limited to the hospital costs directly connected to an accident that precipitated a lawsuit.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 12 Nay 6